United Nations A/71/568

General Assembly

Distr.: General
25 October 2016

Original: English

Seventy-first session
Agenda item 114 (d)
Elections to fill vacancies in subsidiary organs and other elections: election of fourteen members of the Human Rights Council

Note verbale dated 10 October 2016 from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly

The Permanent Mission of the Republic of South Africa to the United Nations presents its compliments to the President of the General Assembly and has the honour to recall the decision of the Government of the Republic of South Africa to present its candidature for re-election to the Human Rights Council for the period 2017-2019, at the elections to be held on 28 October 2016, during the seventy-first session of the General Assembly.

The Government of the Republic of South Africa looks forward to contributing to the work of the Human Rights Council in an efficient, effective and constructive way, informed by the primacy of respect for and the promotion, protection and fulfilment of all human rights and fundamental freedoms, which are at the core of the South African constitutional dispensation and constitute a pillar of its foreign policy priorities.

In accordance with General Assembly resolution 60/251, the Permanent Mission has the honour to present herewith the voluntary pledges and commitments of the Government of the Republic of South Africa to the promotion and protection of human rights at the national and international levels (see annex).

The Permanent Mission would be grateful if the present note and its annex could be circulated as a document of the General Assembly, under agenda item 114 (d).

Please recycle

Annex to the note verbale dated 10 October 2016 from the Permanent Mission of South Africa to the United Nations addressed to the President of the General Assembly

Candidature of South Africa to the Human Rights Council, 2017-2019

Voluntary pledges and commitments pursuant to General Assembly resolution 60/251

Explanatory note to the aide-mémoire

1. The South African Government has consciously decided to seek re-election to the Human Rights Council for the period 2017-2019, informed by the primacy of respect for and the promotion, protection and fulfilment of all human rights and fundamental freedoms, which are at the core of the South African constitutional dispensation and constitute a pillar of its foreign policy priorities.

2. The Government plays a leading role within the United Nations human rights system advocating, among others, the centrality of the Charter of the United Nations, respect for the basic principles of international law, multilateralism and governance and the rule of law, promoting and defending the norms as codified in international human rights law and international humanitarian law and contributing to the development and strengthening of norms and standards to ensure the maximum protection of victims, the provision of effective remedies and zero tolerance on impunity. These core values, objectives and foundations on which the United Nations is predicated inspire South Africa and its active participation in the United Nations human rights system.

3. Likewise, the same principles inspire South Africa's collaboration with its neighbours in the context of the Southern African Development Community (SADC), as a regional economic community, the African Union through Agenda 2063: The Africa We Want and the New Partnership for Africa's Development for the advancement of the African agenda. To that end, the Government was honoured by the unanimous endorsement of its candidature to the Human Rights Council at the twenty-seventh African Union Summit, held in Kigali on 17 and 18 July 2016.

4. On the domestic front, the Government continues with its commitment to the implementation of its international human rights obligations, including, but not limited to, the recommendations of the United Nations treaty monitoring bodies, the universal periodic review mechanism and the special procedures of the Human Rights Council. In that regard, the Government presented no fewer than three periodic reports to the human rights treaty monitoring bodies in 2016. As part of the importance that the Government attaches to those bodies, it fielded three candidates to the Human Rights Committee, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child, who were successfully elected.

5. The Government is currently preparing its initial report to the Committee on Economic, Social and Cultural Rights following its ratification of the International

Covenant on Economic, Social and Cultural Rights on 12 January 2015. The Government continues to provide leadership at the international level in advocating the notion of the justiciability of economic, social and cultural rights. Furthermore, it will be submitting its country report in preparation for the 2017 universal periodic review mechanism.

6. Notwithstanding those noteworthy achievements, South Africa continues to face challenges in the form of protection and implementation gaps in critical human rights areas, such as the rights of the child, the empowerment of women and gender equality, migration and the concomitant xenophobia and the Gini coefficient, disaggregated by race and gender. The income gap between the different race groups within the country remains disproportionately very high. This discrepancy has propelled the Government to prioritize employment equity, consistent with the South African Employment Equity Act No. 55 of 1998. Additionally, it has prioritized the promulgation of legislation criminalizing the scourge of racism and incitement to hatred, which undermines the attainment of the national ideal, namely, social cohesion and national identity.

Aide-mémoire in support of the candidature of South Africa to the Human Rights Council, 2017-2019

7. Since its readmission to the community of nations in 1995, following the historic democratic elections of 27 April 1994, the Government has played a leading role in the United Nations human rights system. Some of the key achievements in that regard include:

(a) Chairing the Commission on Human Rights in 1998;

(b) Co-facilitation of the General Assembly process that established the Human Rights Council;

(c) Co-facilitation of the General Assembly process to address the plight of people of African descent, culminating in the International Decade for People of African Descent;

(d) Active leadership in the institution-building processes of the Human Rights Council, which culminated in the adoption of its landmark resolutions 5/1 and 5/2 in 2007;

(e) Leading negotiations on all United Nations human rights resolutions aimed at the global elimination of the scourge of racism and the promotion of human dignity and equality;

(f) Leading historic and landmark initiatives aimed at accountability for human rights violations by the corporate sector, which include transnational corporations and other business enterprises, private military and security companies and the extractive industries. South Africa, in partnership with Ecuador, is currently leading a United Nations human rights initiative on the elaboration of a legally binding instrument to hold transnational corporations and other business enterprises accountable in international human rights law for violations of human rights.

6-18584

8. In the relatively short period of two decades, the institutions of democratic governance in South Africa have proven to be resilient. The country's constitutional dispensation, with its separation of powers, namely, the legislature, executive and judiciary, has ensured accountable democratic governance. The judiciary remains the final arbiter on all matters of constitutionality of the country's democratic governance. That achievement derives, in large part, from the fact that the South African Constitution has a chapter dedicated to the Bill of Rights, which is based on the International Bill of Human Rights and guarantees all human rights and fundamental freedoms.

9. As part of dealing with the injustices of the past and closing a dark chapter of South African history, the Government repealed all the repugnant laws of apartheid, which had denied the majority of its peoples inherent human dignity and equality. The key and foremost priorities in that regard were:

(a) Abolition of the death penalty, which was previously abused for racial reasons;

(b) Repealing the Immorality and Mixed Marriages Acts, which encouraged ideologies of racial superiority and white supremacy;

(c) Promulgation of the Truth and National Reconciliation Act;

(d) Promulgation of the Employment Equity Act.

10. Over and above the foregoing efforts, the Government also acceded to numerous international human rights instruments in the context of SADC, the African Union and the United Nations.

11. In the above context, South Africa is in the process of acceding, in the foreseeable future, to the following important instruments:

(a) Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(b) Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;

(c) International Convention for the Protection of All Persons against Enforced Disappearance;

(d) Convention relating to the Status of Stateless Persons;

(e) Convention on the Reduction of Statelessness;

(f) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

12. South Africa has also been working tirelessly to improve the situation of its reporting obligations to United Nations human rights treaty monitoring bodies. To that end, in 2016, South Africa presented three reports to the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee on the Rights of the Child, including a report on the sale of children. The South African ideal in that regard is to ensure that there are no backlogs in its reporting obligations.

13. The ratification by South Africa of the International Covenant on Economic, Social and Cultural Rights in January 2015 brought with it opportunities to demonstrate leadership in numerous areas towards the universal acceptance of the notion of the justiciability of economic, social and cultural rights, including the realization of the right to development.

14. Pursuant to its leadership on Human Rights Council resolution 4/7, South Africa intends, during 2017, to conclude the process of the rectification of the legal status of the Committee on Economic, Social and Cultural Rights by ensuring that the Committee is properly established under human rights treaty law and transferring the treaty competencies of the Committee from the Economic and Social Council to the ICESCR. Other initiatives on which South Africa intends to lead in that regard include initiating a protocol to amend the two core human rights covenants by integrating the right to development as a fundamental and inalienable human right, as agreed to by consensus at the World Conference on Human Rights, in 1993.

15. South Africa remains resolute in its commitment to ensuring that the United Nations human rights system adopts the four requisite additional protocols to the International Convention on the Elimination of All Forms of Racial Discrimination covering the following areas: xenophobia, Islamophobia, anti-Semitism and the incitement to hatred through ethnic, religious and racial profiling.

16. Within its limited resources, South Africa continues to contribute financially to the following United Nations voluntary funds managed by the Office of the United Nations High Commissioner for Human Rights:

(a) United Nations Trust Fund for the Support of the Activities of the High Commissioner for Human Rights;

(b) United Nations Voluntary Fund for Technical Cooperation in the Field of Human Rights;

(c) United Nations Voluntary Fund for Victims of Torture;

(d) United Nations Voluntary Trust Fund on Contemporary Forms of Slavery.

17. Finally, South Africa remains committed to the letter and spirit of the Vienna Declaration and Programme of Action that human rights are the legitimate concern of the international community and that they should be addressed dispassionately and in a fair and equal manner without politicization, double standards and selective targeting. The latter has been re-emphasized in the framework of General Assembly resolution 60/251. It is the genuine belief of the Government that all States Members of the United Nations that are committed to global respect for human rights through the promotion, protection and fulfilment of all human rights and fundamental freedoms should do so by means of collaboration, constructive dialogue and cooperation with the countries concerned and not through alienation.